

HOUSE BILL NO. 846

INTRODUCED BY J. SINRUD

BY REQUEST OF THE HOUSE APPROPRIATIONS STANDING COMMITTEE

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6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING STATE EMPLOYEE

7 CLASSIFICATION AND COMPENSATION; REQUIRING THAT EMPLOYEES BE PLACED ON THE NEW

8 BROADBAND PAY PLAN; PROVIDING FOR IMPLEMENTATION OF THE BROADBAND PAY PLAN BY STATE

9 AGENCIES; PROHIBITING THE TRANSFER OF FUNDS FOR PURPOSES OF FUNDING PERSONAL

10 SERVICES PAY INCREASES; REPLACING STATUTORY SALARIES FOR LEGISLATORS WITH SALARIES

11 BASED UPON THE BROADBAND PAY PLAN; SETTING SALARIES FOR THE COMMISSIONER OF

12 POLITICAL PRACTICES AND THE MEMBERS OF THE STATE TAX APPEAL BOARD; APPROPRIATING

13 FUNDS TO IMPLEMENT PAY AND BENEFIT REVISIONS FOR THE COMMISSIONER OF POLITICAL

14 PRACTICES AND THE MEMBERS OF THE STATE TAX APPEAL BOARD; AMENDING SECTIONS 2-6-110,

15 2-15-131, 2-18-101, 2-18-201, 2-18-202, 2-18-203, 2-18-204, 2-18-206, 2-18-207, 2-18-301, 2-18-303, 2-18-304,

16 2-18-1011, 2-18-1204, 5-2-301, 5-2-302, 13-37-106, 15-2-102, 17-7-102, 17-7-139, 39-51-301, AND 44-1-504,

17 MCA; REPEALING SECTIONS 2-18-205 AND 2-18-312, MCA; AND PROVIDING EFFECTIVE DATES AND

18 APPLICABILITY DATES."

19

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21

22 **Section 1.** Section 2-6-110, MCA, is amended to read:

23 **"2-6-110. Electronic information and nonprint records -- public access -- fees.** (1) (a) Except as

24 provided by law, each person is entitled to a copy of public information compiled, created, or otherwise in the

25 custody of public agencies that is in electronic format or other nonprint media, including but not limited to

26 videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the

27 information in printed form. All restrictions relating to confidentiality, privacy, business secrets, and copyright are

28 applicable to the electronic or nonprint information.

29 (b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society

30 established pursuant to 22-3-101.



- 1 (2) Except as provided by law and subject to subsection (3), an agency may charge a fee, not to exceed:
- 2 (a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person
- 3 requesting the information does not provide the media;
- 4 (b) expenses incurred by the agency as a result of mainframe and midtier processing charges;
- 5 (c) expenses incurred by the agency for providing online computer access to the person requesting
- 6 access;
- 7 (d) other out-of-pocket expenses directly associated with the request for information, including the
- 8 retrieval or production of electronic mail; and
- 9 (e) the hourly market rate for an administrative assistant in pay band 3 of the broadband pay plan, as
- 10 provided for in 2-18-301, in the current fiscal year ~~for a state employee classified as grade 10, market salary,~~
- 11 ~~under 2-18-312~~ for each hour, or fraction of an hour, after one-half hour of copying service has been provided.
- 12 (3) (a) In addition to the allowable fees in subsection (2), the department of revenue may charge an
- 13 additional fee as reimbursement for the cost of developing and maintaining the property valuation and
- 14 assessment system database from which the information is requested. The fee must be charged to persons,
- 15 federal agencies, state agencies, and other entities requesting the database or any part of the database from any
- 16 department property valuation and assessment system. The fee may not be charged to the governor's office of
- 17 budget and program planning, the state tax appeal board, or any legislative agency or committee.
- 18 (b) The department of revenue may not charge a fee for information provided from any department
- 19 property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other
- 20 governmental functions or to an individual taxpayer concerning the taxpayer's property.
- 21 (c) All fees received by the department of revenue under subsection (2) and this subsection (3) must be
- 22 deposited in a state special revenue fund as provided in 15-1-521.
- 23 (d) Fees charged by the secretary of state pursuant to this section must be set and deposited in
- 24 accordance with 2-15-405.
- 25 (4) For the purposes of this section, the term "agency" has the meaning provided in 2-3-102 but includes
- 26 legislative, judicial, and state military agencies.
- 27 (5) An agency may not charge more than the amount provided under subsection (2) for providing a copy
- 28 of an existing nonprint record.
- 29 (6) An agency shall ensure that a copy of information provided to a requester is of a quality that reflects
- 30 the condition of the original if requested by the requester.

1 (7) This section does not authorize the release of electronic security codes giving access to private
2 information."

3
4 **Section 2.** Section 2-15-131, MCA, is amended to read:
5 **"2-15-131. Rights of state personnel.** Unless otherwise provided in this chapter, each state officer or
6 employee affected by the reorganization of the executive branch of state government under this chapter is entitled
7 to all rights which he possessed as a state officer or employee before the effective date of the applicable part of
8 this chapter, including rights to tenure in office and of ~~rank or grade~~ pay, rights to vacation and sick pay and leave,
9 rights under any retirement or personnel plan or labor union contract, rights to compensatory time earned, and
10 any other rights under any law or administrative policy. This section is not intended to create any new rights for
11 any state officer or employee but to continue only those rights in effect before the effective date of the applicable
12 part of this chapter or an amendment to this chapter."
13

14 **Section 3.** Section 2-18-101, MCA, is amended to read:
15 **"2-18-101. Definitions.** As used in parts 1 through 3 and part 10 of this chapter, the following definitions
16 apply:

17 (1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state
18 government recognized in the state budget.

19 ~~(2) "Anniversary date", except as modified in part 3 of this chapter, means the month and day on which~~
20 ~~an employee began the most recent period of uninterrupted state service.~~

21 ~~(3)~~(2) "Base salary" means the amount of compensation paid to an employee, excluding:

- 22 (a) state contributions to group benefits provided in 2-18-703;
23 (b) overtime;
24 (c) fringe benefits as defined in 39-2-903; and
25 (d) the longevity allowance provided in 2-18-304.

26 (3) "Benchmark" means a representative position in a specific occupation that is used to illustrate the
27 application of the job evaluation factor used to determine the pay band for an occupation.

28 (4) "Board" means the board of personnel appeals established in 2-15-1705.

29 (5) "Broadband classification plan" means a job evaluation method that measures the difficulty of the
30 work and the knowledge or skills required to perform the work.

1 ~~(6)~~ "Broadband pay plan" means a pay plan using a pay hierarchy of broad pay bands based on the
2 broadband classification plan.

3 ~~(5)~~ "Class" means one or more positions substantially similar with respect to the kind or nature of duties
4 performed, responsibility assumed, and level of difficulty so that the same descriptive title may be used to
5 designate each position allocated to the class, similar qualifications may be required of persons appointed to the
6 positions in the class, and the same pay rate or pay grade may be applied with equity.

7 ~~(6)~~ "Class series benchmark" means a representative position within a class series that is used to
8 illustrate the application of the job evaluation factors that are used to classify positions in the classification plan.
9 A benchmark description describes the duties and responsibilities assigned and the factors applied to the class
10 series benchmark.

11 ~~(7)~~ "Class specification" means a written descriptive statement of the duties and responsibilities
12 characteristic of a class of positions and includes the education, experience, knowledge, skills, abilities, and
13 qualifications necessary to perform the work of the class.

14 ~~(8)~~(7) "Compensation" means the annual or hourly wage or salary and includes the state contribution
15 to group benefits under the provisions of 2-18-703.

16 ~~(9)~~(8) "Competencies" means sets of measurable and observable knowledge, skills, ~~abilities~~, and
17 behaviors that contribute to success in a job.

18 ~~(10)~~(9) "Department" means the department of administration created in 2-15-1001.

19 ~~(11)~~(10) (a) Except in 2-18-306, "employee" means any state employee other than an employee excepted
20 under 2-18-103 or 2-18-104 ~~from the statewide classification system.~~

21 (b) The term does not include a student intern.

22 ~~(12)~~(11) "Entry salary" means the entry-level base salary for each ~~grade provided in 2-18-312~~
23 occupational pay range.

24 ~~(13)~~ "Grade" means the number assigned to a pay range within a pay schedule in part 3 of this chapter.

25 ~~(12)~~ "Job evaluation factor" means a measure of the complexities of the predominant duties of the job.

26 ~~(14)~~(13) "Job sharing" means the sharing by two or more persons of a position.

27 ~~(15)~~ "Market ratio" means an employee's base salary divided by the market salary for the employee's pay
28 grade.

29 ~~(16)~~(14) "Market salary" means the midpoint in a an occupational pay grade provided in 2-18-312 range,
30 based on the average base salary that other employers pay to employees in comparable occupations as

1 determined by the department's salary survey of the relevant labor market.

2 (15) "Occupation" means a generalized family of jobs having substantially similar duties and requiring
3 similar qualifications, education, and experience.

4 (16) "Occupational pay range" means a range of pay, including an entry salary, market salary, and
5 maximum salary, for a specific occupation within a specific pay band. An occupation may have more than one
6 occupational pay range. An occupational pay range must fit within the appropriate pay band.

7 (17) "Pay band" means a wide salary range covering a number of different occupations.

8 ~~(17)~~(18) "Permanent employee" means an employee who is designated by an agency as permanent and
9 who has attained or is eligible to attain permanent status.

10 ~~(18)~~(19) "Permanent status" means the state an employee attains after satisfactorily completing an
11 appropriate probationary period.

12 ~~(19)~~(20) "Personal staff" means those positions occupied by employees appointed by the elected officials
13 enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole.

14 ~~(20)~~(21) "Position" means a collection of duties and responsibilities currently assigned or delegated by
15 competent authority, requiring the full-time, part-time, or intermittent employment of one person.

16 ~~(21)~~(22) "Program" means a combination of planned efforts to provide a service.

17 ~~(22)~~(23) "Seasonal employee" means a permanent employee who is designated by an agency as
18 seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights
19 or benefits accrued during the preceding season.

20 ~~(23)~~(24) "Short-term worker" means a person who:

- 21 (a) is hired by an agency for an hourly wage established by the agency;
22 (b) may not work for the agency for more than 90 days in a continuous 12-month period;
23 (c) is not eligible for permanent status;
24 (d) may not be hired into another position by the agency without a competitive selection process; and
25 (e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter or the group
26 insurance benefits provided in part 7 of this chapter.

27 ~~(24)~~(25) "Student intern" means a person who:

- 28 (a) has been accepted in or is currently enrolled in an accredited school, college, or university and is
29 hired directly by an agency in a student intern position;
30 (b) is not eligible for permanent status;

- 1 (c) is not eligible to become a permanent employee without a competitive selection process;
- 2 (d) must be covered by the hiring agency's workers' compensation insurance;
- 3 (e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter or the group
- 4 insurance benefits provided in part 7 of this chapter; and
- 5 (f) may be discharged without cause.

6 ~~(25)~~(26) "Telework" means a flexible work arrangement where a designated employee may work from
 7 home within the state of Montana or an alternative worksite within the state of Montana 1 or more days a week
 8 instead of physically traveling to a central workplace.

9 ~~(26)~~(27) "Temporary employee" means an employee who:

- 10 (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;
- 11 (b) performs temporary duties or permanent duties on a temporary basis;
- 12 (c) is not eligible for permanent status;
- 13 (d) is terminated at the end of the employment period; and
- 14 (e) is not eligible to become a permanent employee without a competitive selection process."

15

16 **Section 4.** Section 2-18-201, MCA, is amended to read:

17 **"2-18-201. ~~Development~~ Implementation and maintenance of personnel broadband classification**

18 **plan.** (1) The department shall ~~develop~~ implement and maintain a ~~personnel broadband~~ classification plan for
 19 all state positions and classes of positions in state service following hearings involving affected employees and
 20 employee organizations, except those exempt in 2-18-103 and 2-18-104. ~~The broadband classification plan must~~
 21 provide for pay based upon but not limited to job performance, employee competencies, and market progression.
 22 An employee's performance must be evaluated by an annual performance appraisal.

23 (2) The legislative council shall in a like manner ~~develop~~ implement and maintain a broadband
 24 classification plan for employees of the legislative branch, other than those of the office of consumer counsel."

25

26 **Section 5.** Section 2-18-202, MCA, is amended to read:

27 **"2-18-202. Guidelines for classification.** (1) In providing for the broadband classification plan, the

28 department shall group all positions in ~~the~~ state service into defined ~~classes~~ occupations based on similarity of
 29 duties work performed, responsibilities assumed, and ~~complexity~~ difficulty of work, required knowledge, and
 30 required skills. ~~so that:~~



1 ~~_____ (a) similar qualifications of education, experience, knowledge, skill, and ability can be required of~~
 2 ~~applicants for each position in the class;~~

3 ~~_____ (b) the same title can be used to identify each position in the class;~~

4 ~~(c)(2) similar Similar pay may be provided under the same conditions with equity to each position within~~
 5 ~~the class to individuals with the same occupation within an occupational pay range.~~

6 ~~(2) A class may consist of only one position."~~

7

8 **Section 6.** Section 2-18-203, MCA, is amended to read:

9 **"2-18-203. Review of positions -- change in classification pay band allocation.** (1) The department
 10 shall ~~continuously~~ review all the job evaluation factor of positions on a regular basis and may adjust classifications
 11 the occupations for the positions to reflect significant changes in duties and responsibilities. ~~In the event that~~ If
 12 adjustments are to be made to ~~class specifications, class series benchmarks, or criteria used for allocating~~
 13 positions to ~~classes~~ pay bands affecting employees within a bargaining unit, the department shall consult with
 14 the representative of the bargaining unit prior to implementation of the adjustments, except for positions factored
 15 in the blue-collar and teachers' classification plans pay plan, which ~~plans~~ must remain a mandatory negotiable
 16 ~~items~~ item under Title 39, chapter 31.

17 (2) Employees and employee organizations must be given the opportunity to appeal the allocation or
 18 reallocation of a position to a class pay band. The grade pay band assigned to ~~a class~~ an occupation and ~~factors~~
 19 ~~assigned to class series benchmarks~~ are not appealable subjects under 2-18-1011 through 2-18-1013.

20 (3) The period of time for which retroactive pay for a classification pay band allocation appeal may be
 21 awarded under 2-18-1011 through 2-18-1013 or under parts 1 through 3 of this chapter may not extend beyond
 22 30 days prior to the date on which the appeal was filed."

23

24 **Section 7.** Section 2-18-204, MCA, is amended to read:

25 **"2-18-204. Determination of number and ~~classes~~ occupations of employees in each agency.** (1)
 26 ~~Based on documentation to be submitted by each agency, the~~ The department shall determine the ~~classes of~~
 27 occupations for positions of employees of in each agency or program thereof ~~before the beginning of each fiscal~~
 28 ~~year.~~ At any time, upon request of the an agency, the department may amend the ~~classes of positions of~~
 29 ~~employees in any list of occupations for the requesting agency or program thereof.~~

30 (2) Based on documentation to be submitted by each agency, the budget director shall determine the

1 number of positions and employees (full-time equivalents) of each agency or program ~~thereof~~ prior to preparation
 2 of the executive budget and before the beginning of each fiscal year. At any time, upon the request of the
 3 agency, the budget director may amend the number of positions or employees (full-time equivalents) in any
 4 agency or program ~~thereof~~.

5 (3) This section does not limit legislative authority to amend the determinations of the department or the
 6 budget director."

7

8 **Section 8.** Section 2-18-206, MCA, is amended to read:

9 **"2-18-206. List of positions maintained.** To facilitate state budgeting and as directed by the budget
 10 director, each agency shall maintain a list of current authorized positions, the number of positions in each ~~class~~
 11 occupation, and the salaries or wages being paid, appropriated, or proposed for each ~~class~~ position. Each
 12 position must have a current job description."

13

14 **Section 9.** Section 2-18-207, MCA, is amended to read:

15 **"2-18-207. Department authorization for increase of salary or wage of class occupational pay**
 16 **range.** An agency may not increase the ~~salary or wage~~ occupational pay range of any ~~class of positions~~
 17 occupation without authorization of the department."

18

19 **Section 10.** Section 2-18-301, MCA, is amended to read:

20 **"2-18-301. Purpose and intent of part -- rules.** (1) The purpose of this part is to provide the
 21 market-based compensation necessary to attract and retain competent and qualified employees in order to
 22 perform the services that the state is required to provide to its citizens.

23 (2) It is the intent of the legislature that compensation plans for state employees, excluding those
 24 employees excepted under 2-18-103 or 2-18-104, be based on an analysis of the labor market as provided by
 25 the department in a biennial salary survey. The salary survey must be submitted to the office of budget and
 26 program planning as a part of the information required by 17-7-111.

27 (3) Except as provided in 2-18-110, pay adjustments ~~and pay schedules~~ provided for in 2-18-303 ~~and~~
 28 ~~in 2-18-312~~ supersede any other plan or systems established through collective bargaining after the adjournment
 29 of the ~~59th~~ legislature.

30 (4) Pay ~~levels~~ provided for in ~~2-18-312~~ 2-18-303 may not be increased through collective bargaining after

1 adjournment of the 59th legislature.

2 (5) Total funds required to implement the pay ~~schedules~~ increases provided for in ~~2-18-312~~ 2-18-303
3 for any employee group or bargaining unit may not be increased through collective bargaining over the amount
4 appropriated by the 59th legislature.

5 (6) The department shall administer the pay program established by the legislature on the basis of merit,
6 internal equity, and competitiveness to external labor markets when fiscally able.

7 (7) The broadband pay plan must consist of nine pay bands. Each pay band must contain a salary range
8 with a minimum salary and a maximum salary. The department shall adopt an entry salary, market salary, and
9 maximum salary for each occupation within each pay band. These salary ranges are also known as occupational
10 pay ranges. The department shall develop rules regarding the transition of employees to the broadband pay plan.
11 The rules must include a percentage of market, as identified in the approved market survey, that all agencies shall
12 initially follow for a transition to the broadband pay plan. This percentage is called the transitional market rate.
13 All agency transitions to the broadband pay plan must be accomplished within the existing appropriation levels.
14 This subsection does not require a reduction in pay for an employee whose pay exceeds the transitional market
15 rate.

16 (8) Based on the biennial salary survey, the department shall:

17 (a) identify current market rates for all occupations;

18 (b) establish pay band levels; and

19 (c) set occupational pay ranges for all occupations.

20 ~~(7)(9)~~ The department may promulgate rules not inconsistent with the provisions of this part, collective
21 bargaining statutes, or negotiated contracts to carry out the purposes of this part.

22 ~~(8)(10)~~ Nothing in this part prohibits the board of regents from engaging in negotiations with the collective
23 bargaining units representing the classified staff of the university system."
24

25 **Section 11.** Section 2-18-303, MCA, is amended to read:

26 **"2-18-303. Procedures for ~~using~~ administering broadband pay schedules plan.** ~~(1) The pay~~
27 ~~schedule provided in 2-18-312 must be implemented as follows:~~

28 ~~— (a) The pay schedule provided in 2-18-312 indicates the entry salary and market salary for each grade~~
29 ~~for positions classified under the provisions of part 2 of this chapter.~~

30 ~~— (b) Each employee newly hired by the state of Montana must be hired at the entry rate, except as~~

1 provided in subsections (5) through (9).

2 ~~(c)(1)~~ (a) On the first day of the first complete pay period in fiscal year ~~2006~~ 2008, each employee is
3 entitled to the amount of the employee's base salary as it was on June 30, ~~2005~~ 2007.

4 ~~(d)(b)~~ Effective on the first day of the first complete pay period that includes ~~an employee's anniversary~~
5 ~~date during the fiscal year ending June 30, 2006~~ October 1, 2007, the base salary of each employee must be
6 increased by 3.5% or \$1,005, based upon 2,080 annual hours in a pay status, whichever is greater 3%. Effective
7 on the first day of the first complete pay period that includes ~~an employee's anniversary date during the fiscal year~~
8 ~~ending June 30, 2007~~ October 1, 2008, the base salary of each employee must be increased by 4% or \$1,188,
9 based upon 2,080 annual hours in a pay status, whichever is greater 3%. For employees hired on or before
10 September 30, 2005, the anniversary date is October 1.

11 (2) (a) Effective October 1, 2007, and October 1, 2008, the appropriation that represents 6/10 of 1% of
12 the salary for each full-time equivalent position must be allocated to each agency to distribute to its employees
13 for reasons that include but are not limited to job performance, employee competencies, and market progression.

14 (b) To the extent that this distribution applies to employees within a collective bargaining unit, the
15 distribution is a negotiable subject under Title 39, chapter 31. The amount of money allocated to agencies and
16 available to distribute to members of each bargaining unit must be determined by multiplying the salaries of the
17 total number of full-time equivalent employees in the bargaining unit by 6/10 of 1%.

18 (c) The allocation described in subsection (2)(b) may not be distributed to members of a collective
19 bargaining unit until the employer's collective bargaining representative receives written notice that the
20 employees' collective bargaining unit has ratified a pay addendum to the collective bargaining agreement
21 specifying the distribution.

22 ~~(e)(3)~~ An employee's base salary may be no less than the pay band entry salary for the employee's
23 assigned grade occupation.

24 ~~(2)~~ The pay schedule provided in 2-18-312 and the provisions of subsections (1)(a) through (1)(d) of this
25 section do not apply to those employees who are members of collective bargaining units that have collectively
26 bargained to participate in a separate or alternative classification and pay plan or who are covered under
27 subsections (5) and (6) of this section.

28 ~~(3)(4)~~ (a) (i) If the legislature authorizes a pay increase for state employees, a A member of a bargaining
29 unit may not receive a the pay increase provided for in subsection (1)(b) until the employer's collective bargaining
30 representative receives written notice that the employee's collective bargaining unit has ratified a completely

1 ~~integrated~~ collective bargaining agreement.

2 (ii) If ratification of a ~~completely integrated~~ collective bargaining agreement, as required by subsection
3 ~~(3)(a)(i)~~ (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented,
4 members of the bargaining unit must continue to receive the compensation that they were receiving until an
5 agreement is ratified.

6 (b) Methods of administration ~~not inconsistent~~ consistent with the purpose of this part and necessary to
7 properly implement the pay ~~schedules and adjustments provided for~~ in 2-18-312 and this section may be provided
8 for in collective bargaining agreements.

9 ~~(4)(5)~~ (5) The current wage or salary of an employee may not be reduced by the implementation of the
10 broadband pay schedules plan provided for in ~~2-18-312~~.

11 ~~(5)~~ The department may authorize a separate pay schedule for classes of medical professionals if the
12 rates provided in ~~2-18-312~~ are not sufficient to attract and retain fully licensed and qualified professionals.

13 ~~————(6) (a)~~ The department may develop and implement an alternative pay and classification plan for certain
14 classes, occupations, and work units. Pay for employees in the alternative pay and classification plan may be
15 established and changed based on demonstrated competencies and accomplishments, on the labor market, and
16 on other situations defined by the department.

17 ~~————(b)~~ To the extent that the plan applies to employees within a collective bargaining unit, the
18 implementation of the plan is a negotiable subject under ~~39-31-305~~.

19 ~~————(7)~~ The department may develop programs that enable the department to mitigate problems associated
20 with difficult recruitment, retention, transfer, or other exceptional circumstances. To the extent that the program
21 applies to employees within a collective bargaining unit, it is a negotiable subject under ~~39-31-305~~.

22 ~~(8)~~ The department shall review the competitiveness of the compensation provided to all occupations
23 under this part. If the department finds that substantial problems exist with recruitment and retention because of
24 inadequate salaries when compared to competing employers, the department may establish criteria allowing an
25 adjustment in pay or classification to mitigate the problems. To the extent that these adjustments apply to
26 employees within a collective bargaining unit, the implementation of these adjustments is a negotiable subject
27 under ~~39-31-305~~.

28 ~~(9)(6)~~ (6) (a) Montana highway patrol officer base salaries and biennial salary increases must be established
29 through an alternative pay and classification the broadband pay plan. Before January 1 of each odd-numbered
30 year, the department shall, after seeking the advice of the Montana highway patrol, conduct a salary survey to

1 be used in establishing the base salary and any biennial salary increase for existing and entry-level highway
 2 patrol officer positions. The county sheriff's offices in the following consolidated governments and counties are
 3 the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark,
 4 Gallatin, Flathead, and Dawson. The base salary and biennial salary increases for existing and entry-level
 5 highway patrol officer positions must then be determined by the department of justice, using the results of the
 6 salary survey and the department of justice pay plan guidelines. Base or biennial salary increases under this
 7 subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after
 8 July 1, 2006.

9 (b) To the extent that the plan applies to employees within a collective bargaining unit, the
 10 implementation of the plan is a negotiable subject under 39-31-305.

11 (c) The department of justice shall submit the salary survey ~~must be submitted~~ to the office of budget
 12 and program planning as a part of the information required by 17-7-111.

13 (d) (i) ~~Except as provided in subsection (9)(d)(ii), the~~ The salary survey and plan must be completed at
 14 least 6 months before the start of each regular legislative session.

15 (ii) ~~The first survey must be completed by January 1, 2006, for the plan to be implemented for the first~~
 16 ~~full pay period in fiscal year 2007.~~

17 (7) The department shall prepare an annual report on the recruitment and retention of state employees."
 18

19 **Section 12.** Section 2-18-304, MCA, is amended to read:

20 "**2-18-304. Longevity allowance.** (1) (a) In addition to the compensation provided for in 2-18-303 ~~or~~
 21 ~~2-18-312~~, each employee who has completed 5 years of uninterrupted state service must receive 1.5% of the
 22 employee's base salary multiplied by the number of completed, contiguous 5-year periods of uninterrupted state
 23 service.

24 (b) In addition to the longevity allowance provided under subsection (1)(a), each employee who has
 25 completed 10 years of uninterrupted state service, 15 years of uninterrupted state service, ~~or completed~~ 20 years
 26 of uninterrupted state service must receive an additional 0.5% of the employee's base salary for each of those
 27 additional 5 years of uninterrupted service.

28 (c) Service to the state is not interrupted by authorized leaves of absence.

29 (2) (a) For the purpose of determining years of service under this section, an employee must be credited
 30 with 1 year of service for each period of:

1 (i) 2,080 hours of service following the employee's date of employment; an employee must be credited
 2 with 80 hours of service for each biweekly pay period in which the employee is in a pay status or on an authorized
 3 leave of absence without pay, regardless of the number of hours of service in the pay period; or

4 (ii) 12 uninterrupted calendar months following the employee's date of employment in which the employee
 5 was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of
 6 service in any month. An employee of a school at a state institution or the university system must be credited with
 7 1 year of service if the employee is employed for an entire academic year.

8 (b) State agencies, other than the university system and a school at a state institution, shall use the
 9 method provided in subsection (2)(a)(i) to calculate years of service under this section.

10 (3) For the purposes of calculating longevity, employment as a short-term worker does not apply toward
 11 years of service."

12
 13 **Section 13.** Section 2-18-1011, MCA, is amended to read:

14 **"2-18-1011. ~~Classification~~ Pay band allocation or compensation grievance -- retaliation -- hearing**
 15 **on complaint.** (1) An employee or his ~~the employee's~~ representative affected by the operation of parts 1 through
 16 3 of this chapter is entitled to file a complaint with the board of personnel appeals provided for in 2-15-1705 and
 17 to be heard under the provisions of a grievance procedure to be prescribed by the board.

18 (2) Direct or indirect interference, restraint, coercion, or retaliation by an employee's supervisor or the
 19 agency for which the employee works or by any other agency of state government against an employee because
 20 the employee has filed or attempted to file a complaint with the board ~~shall is also be the~~ basis for a complaint
 21 and ~~shall entitle~~ entitles the employee to file a complaint with the board and to be heard under the provisions of
 22 the grievance procedure prescribed by the board.

23 (3) An action ~~attempting that attempts~~ to revise the ~~class specifications of or series of class specifications~~
 24 determination of a pay band involving and that involves an employee exercising a right conferred by 2-18-1011
 25 through 2-18-1013 in a way ~~which that~~ would adversely affect the employee prior to final resolution or entry of
 26 a final order with respect ~~thereto to the action~~ is presumed to be an interference, restraint, coercion, or retaliation
 27 prohibited by subsection (2) of this section unless ~~such the~~ review was commenced or scheduled prior to filing
 28 of the appeal and was not prompted by the grievance appealed from. The presumption is rebuttable."

29
 30 **Section 14.** Section 2-18-1204, MCA, is amended to read:

1 **"2-18-1204. Salary and benefits protection -- employee transfer.** An employee whose position is
 2 eliminated as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency,
 3 or other actions by the legislature and who is subsequently transferred to a different position in a state agency
 4 is entitled to:

5 (1) the same hourly salary as previously received if the new position is ~~at the same grade level in the~~
 6 same occupational pay range or higher as the one previously held;

7 (2) retain all accrued sick leave credits;

8 (3) retain, cash out, or use accrued vacation leave credits to extend the employee's effective layoff date;

9 and

10 (4) relocation expenses as provided in agency policy."
 11

12 **Section 15.** Section 5-2-301, MCA, is amended to read:

13 **"5-2-301. Compensation and expenses for members while in session.** (1) Legislators are entitled
 14 to a salary commensurate to that of the daily rate of ~~an entry grade 10 classified state employee~~ for an employee
 15 earning \$10.33 an hour in effect when the regular session of the legislature in which they serve is convened under
 16 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any
 17 statutorily required pay increase. The president of the senate and the speaker of the house must receive an
 18 additional \$5 a day in salary for those days during which the legislature is in session.

19 (2) Legislators may serve for no salary.

20 (3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a
 21 legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop
 22 when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

23 (4) After November 15, and prior to December 15 of each even-numbered year, the department of
 24 administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North
 25 Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance
 26 for Montana legislators in determining the average daily rate for legislators. The department shall include only
 27 states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the
 28 daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the
 29 legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the
 30 percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is

1 calculated pursuant to 15-6-134, or 5%, whichever is less. The expense allowance is effective when the next
2 regular session of the legislature in which the legislators serve is convened under 5-2-103.

3 (5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the
4 place of the holding of the session and to return to their place of residence at the conclusion of the session.

5 (6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an
6 appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

7 (a) three additional round trips to their place of residence during each regular session; and

8 (b) additional round trips as authorized by the legislature during special session.

9 (7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special
10 session if it is convened within 7 days of a regular session."

11

12 **Section 16.** Section 5-2-302, MCA, is amended to read:

13 **"5-2-302. Compensation and expenses when legislature not in session.** When the legislature is not
14 in session, a member of the legislature, while engaged in legislative business with prior authorization of the
15 appropriate funding authority, is entitled to:

16 (1) a mileage allowance as provided in 2-18-503;

17 (2) expenses as provided in 2-18-501 and 2-18-502; and

18 (3) a salary equal to one full day's pay at the rate of a classified state employee, described in 5-2-301(1)
19 for each 24-hour period of time (from midnight to midnight), or portion thereof of a 24-hour period, spent away
20 from home on authorized legislative business. However, if time spent for business other than authorized
21 legislative business results in lengthening a legislator's stay away from home into an additional 24-hour period,
22 ~~he~~ the legislator may not be compensated for the additional day."

23

24 **Section 17.** Section 13-37-106, MCA, is amended to read:

25 **"13-37-106. Salary.** (1) The commissioner of political practices ~~is entitled to receive an annual salary~~
26 ~~of \$31,551 and beginning October 1, 1997,~~ is entitled to receive a salary, as of the first full pay period in fiscal
27 year 2008, based on an hourly rate of \$25.995 equal to the market salary of a grade 18 classified employee as
28 provided in 2-18-312.

29 (2) The commissioner is also entitled to longevity, expense reimbursement, leave, insurance, and other
30 benefits provided to classified state employees under Title 2, chapter 18.

1 (3) The salary of the commissioner may not be reduced during the term for which the commissioner is
2 appointed.

3 (4) The commissioner of political practices must receive pay adjustments consistent with those required
4 by the legislature for state employees in 2-18-303 and 2-18-304."

5
6 **Section 18.** Section 15-2-102, MCA, is amended to read:

7 **"15-2-102. Qualification and compensation.** (1) To be appointed a member of the state tax appeal
8 board, a person must possess knowledge of the subject of taxation and skill in matters ~~pertaining thereto~~ relating
9 to taxation. ~~No person so appointed~~ A member may not hold any other state office or any office under the
10 government of the United States or under the government of any other state. The person shall devote the entire
11 time to the duties of the office and ~~shall~~ may not hold any other position of trust or profit or engage in any
12 occupation or business interfering or inconsistent with the person's duties. The state tax appeal board is
13 ~~transferred~~ allocated to the department of administration for administrative purposes only as is specified in
14 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

15 (2) State tax appeal board members ~~shall~~ must be paid a salary, as of the first full period of fiscal year
16 2008, based upon an hourly rate of \$20.67, except that the member designated as the presiding officer must
17 receive a salary based on an hourly rate of \$21.704 equivalent to that of a grade 17 salary as provided in
18 2-18-342. State tax appeal board members must receive pay and pay adjustments consistent with those required
19 by the legislature for ~~classified~~ state employees in 2-18-303 and 2-18-304. ~~The member designated as presiding~~
20 ~~officer as provided for in 15-2-103 must have an additional 5% added to the salary.~~ All members of the board ~~shall~~
21 must receive travel expenses as provided for in 2-18-501 through 2-18-503, ~~as amended~~; when away from the
22 capital on official business."

23
24 **Section 19.** Section 17-7-102, MCA, is amended to read:

25 **"17-7-102. Definitions.** As used in this chapter, the following definitions apply:

26 (1) "Additional services" means different services or more of the same services.

27 (2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges,
28 and any other person or any other administrative unit of state government that spends or encumbers public
29 money by virtue of an appropriation from the legislature under 17-8-101.

30 (3) "Approving authority" means:

- 1 (a) the governor or the governor's designated representative for executive branch agencies;
 2 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
 3 branch agencies;
 4 (c) the speaker for the house of representatives;
 5 (d) the president for the senate;
 6 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

7 or

- 8 (f) the board of regents of higher education or its designated representative for the university system.

9 (4) "Base budget" means the resources for the operation of state government that are of an ongoing and
 10 nonextraordinary nature in the current biennium. The base budget for the state general fund and state special
 11 revenue funds may not exceed that level of funding authorized by the previous legislature.

12 (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

13 (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated
 14 circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly
 15 not within the contemplation of the legislature and the governor, and that affects one or more functions of a state
 16 agency and the agency's expenditure requirements for the performance of the function or functions.

17 (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set
 18 forth in 17-8-101.

19 (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next
 20 legislative session for legislative consideration.

21 (9) (a) "New proposals" means requests to provide new nonmandated services, to change program
 22 services, to eliminate existing services, or to change sources of funding.

23 (b) ~~For~~ Subject to subsection (9)(c), for purposes of establishing the present law base, the distinction
 24 between new proposals and the adjustments to the base budget to develop the present law base is to be
 25 determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any
 26 proposed increase or decrease that is not based on those requirements is considered a new proposal.

27 (c) Any adjustment to the personal services portion of the base budget in excess of the funding provided
 28 in the fully funded pay plan approved by the previous legislature must be considered a new proposal. For the
 29 purposes of this subsection (9)(c), the fully funded pay plan is the aggregate amount appropriated for personal
 30 services by the previous legislature for a department, agency, or program, including present law adjustments.

1 (10) "Present law base" means, subject to subsection (9)(c), that level of funding needed under present
 2 law to maintain operations and services at the level authorized by the previous legislature, including but not
 3 limited to:

- 4 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
 5 (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;
 6 (c) inflationary or deflationary adjustments; and
 7 (d) elimination of nonrecurring appropriations.

8 (11) "Program" means a principal organizational or budgetary unit within an agency.

9 (12) "Requesting agency" means the agency of state government that has requested a specific budget
 10 amendment.

11 (13) "University system unit" means the board of regents of higher education; office of the commissioner
 12 of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state
 13 university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with
 14 central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the
 15 cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central
 16 offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City,
 17 Glendive, and Kalispell."

18

19 **Section 20.** Section 17-7-139, MCA, is amended to read:

20 **"17-7-139. Program transfers.** (1) (a) Unless prohibited by law or a condition contained in the general
 21 appropriations act, the approving authority may approve agency requests to transfer appropriations between
 22 programs within each fund type within each fiscal year. ~~The legislature may restrict the use of funds~~ Funds
 23 appropriated for personal services to allow use may be used only for the purpose of the appropriation, and funds
 24 not appropriated for personal services may not be used for personal services.

25 (b) An explanation of any significant transfer must be submitted on a regular basis to the interim
 26 committee that has program evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5,
 27 part 2. An explanation of any transfer that involves a significant change in agency or program scope, objectives,
 28 activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment by the
 29 legislative finance committee prior to any implementation of the change.

30 (c) If the approving authority certifies that a request for a transfer representing a significant change in

1 agency or program scope, objectives, activities, or expenditures is time-sensitive, the approving authority may
 2 approve the transfer prior to the next regularly scheduled meeting of the legislative finance committee. The
 3 approving authority shall submit all proposed time-sensitive changes to the legislative fiscal analyst prior to
 4 approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is
 5 warranted, the legislative fiscal analyst shall immediately notify as many members as possible of the proposed
 6 change and communicate any concerns expressed to the approving authority. The approving authority shall
 7 present a report fully explaining the reasons for the action to the next meeting of the legislative finance committee.

8 (d) All program transfers must be completed within the same fund from which the transfer originated. A
 9 request for a transfer accompanied by a justification explaining the reason for the transfer must be submitted by
 10 the requesting agency to the approving authority and the office of budget and program planning. Upon approval
 11 of the transfer in writing, the approving authority shall inform the legislative fiscal analyst of the approved transfer
 12 and the justification for the transfer.

13 (e) If money appropriated for a fiscal year is transferred to another fiscal year, the money may not be
 14 retransferred, except that money remaining from projected costs for spring fires estimated in the last quarter of
 15 the first year of a biennium may be retransferred.

16 (2) For the purposes of subsection (1), an agency or program is considered to have a significant change
 17 in its scope, objectives, activities, or expenditures if:

18 (a) the budget transfer exceeds \$1 million; or

19 (b) the budget transfer exceeds 25% of a program's total operating plan and the transfer is greater than
 20 \$25,000. If there have been other transfers to or from the program in the current fiscal year, all the transfers,
 21 including the transfer under consideration, must be used in determining the 25% and \$25,000 threshold."

22

23 **Section 21.** Section 39-51-301, MCA, is amended to read:

24 "**39-51-301. Administration -- duties and powers of department.** (1) It is the duty of the department
 25 to administer this chapter and it may adopt, amend, or rescind rules to employ persons, make expenditures,
 26 require reports, make investigations, and take action that it considers necessary or suitable in administering this
 27 chapter.

28 (2) The department shall determine its own organization and methods of procedure in accordance with
 29 the provisions of this chapter and must have an official seal, which is judicially noticed.

30 (3) Whenever the department believes that a change in contribution or benefit rates will become

1 necessary to protect the solvency of the fund, it shall promptly inform the governor and the legislature and make
2 recommendations with respect to the change.

3 (4) The department and the board may issue subpoenas and compel testimony and the production of
4 evidence, including books and records, in regard to any investigation or proceeding under this chapter.

5 (5) Employees transferring from the department of revenue to the department as a result of the
6 termination of the delegation of duties associated with unemployment insurance contribution functions are entitled
7 to all rights, including those under 2-15-131, possessed as a state officer or employee before transferring,
8 including rights to tenure in office and of rank or grade, rights to vacation and sick pay and leave, rights under
9 any retirement or personnel plan or labor union contract, rights to compensatory time earned, and any other rights
10 under any law or administrative policy including the State Employee Protection Act. Employees transferring must
11 be considered internal applicants by the department of revenue for recruitment purposes for 1 year from the date
12 of the termination of the delegation of duties associated with unemployment insurance contribution functions.

13 (6) The department shall succeed the department of revenue in its rights to property relating to the
14 termination of the delegation of duties associated with unemployment insurance contribution functions to the
15 extent that is consistent with federal property transfer policy. The property includes real property, records, office
16 equipment, forms, supplies, and contracts other than the program budget plan with the United States department
17 of labor.

18 (7) (a) The termination of the delegation of duties associated with unemployment insurance contribution
19 functions does not affect the validity of any pending judicial or administrative proceeding.

20 (b) All appeals that have not been heard prior to the termination of the delegation of duties associated
21 with unemployment insurance contribution functions must be made in accordance with the procedures identified
22 in 39-51-1109.

23 (c) The department must be substituted for the department of revenue and succeed to all audits,
24 determinations, and other actions following the date of the termination of the delegation of duties associated with
25 unemployment insurance contribution functions.

26 (8) The rights, privileges, and duties of the holders of bonds and other obligations issued and of the
27 parties to contracts, leases, indentures, and other transactions entered into before the termination of the
28 delegation of duties associated with unemployment insurance contribution functions remain in effect, and none
29 of those rights, privileges, duties, covenants, or agreements are impaired or diminished by reason of the
30 delegation of duties. The department is substituted for the department of revenue and succeeds to the rights and

1 duties under the provisions of those bonds, contracts, leases, indentures, and other transactions. The provisions
 2 of this subsection do not apply to the program budget plan agreement between the department and the United
 3 States department of labor."

4

5 **Section 22.** Section 44-1-504, MCA, is amended to read:

6 **"44-1-504. Special revenue account to partially fund highway patrol officers' salaries -- statutory**
 7 **appropriation.** (1) There is an account in the state special revenue fund provided for in 17-2-102.

8 (2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of
 9 justice to fund, pursuant to ~~2-18-303(10)~~ 2-18-303(6):

10 ~~(a) an increase in the base salary for the number of highway patrol officer positions existing on June 30,~~
 11 ~~2006;~~

12 ~~(b)~~(a) the base salary and associated operating costs for new highway patrol officer positions created
 13 after June 30, 2006; and

14 ~~(e)~~(b) biennial salary increases after June 30, 2006, for highway patrol officers."

15

16 NEW SECTION. **Section 23. Appropriations.** (1) There is appropriated to the state tax appeal board
 17 from the state general fund \$173,307 in fiscal year 2008 and \$174,014 in fiscal year 2009 to be used to pay
 18 salaries for state tax appeal board members.

19 (2) There is appropriated to the office of the commissioner of political practices \$73,587 in fiscal year
 20 2008 and \$76,136 in fiscal year 2009 to be used to pay the salary for the commissioner of political practices.

21

22 NEW SECTION. **Section 24. Repealer.** Sections 2-18-205 and 2-18-312, MCA, are repealed.

23

24 COORDINATION SECTION. **Section 25. Coordination instruction.** If House Bill No. 13 and [this act]
 25 are both passed and approved and if House Bill No. 13 and [this act] both amend sections 13-37-106 and
 26 15-2-102, then the amendments to those sections in House Bill No. 13 are void.

27

28 NEW SECTION. **Section 26. Effective dates.** (1) Except as provided in subsection (2), [this act] is
 29 effective July 1, 2007.

30 (2) [Sections 1 through 16 and 19 through 22] are effective January 1, 2009.

1
2 **NEW SECTION. Section 27. Applicability.** (1) [Sections 15 and 16] apply to legislators beginning with
3 the legislative session convening in January 2009.

4 (2) [Sections 1 through 14 and 18 through 21] apply to collective bargaining negotiations commenced
5 prior to the 61st legislative session.

6

7

- END -